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JH-GOV

P.m. 3/26/92

March 27, 1992

Attorney General Dan Morales
Supreme Court Building
P.O. Box 12548
Austin, Texas 78711-2548

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Re: Child Support Payment Records

Opinion Committee

Dear Attorney General Morales:

The Child Support Registry of the Bexar County Juvenile Probation Department received an Open Records Act request for the child support payment history of Robert A. Tejeda. A copy of this request is attached for your review as exhibit "A." The Bexar County District Attorney's Office requests an opinion on whether these records are open to the public.

The position of Bexar County is that the requested records are records of the judiciary, and as such are not subject to the Open Records Act. Tex. Rev. Civ. Stat. Ann. art. 6252-17a(2)(1)(H) (Vernon Supp. 1992). The Bexar County Juvenile Probation Office is under the direction of the Bexar County Juvenile Board, which is composed of the county judge and the district judges in Bexar County. Tex. Human Res. Code Ann. §152.0211 (Vernon 1990). The records requested indicate whether the payor is making payments pursuant to the order of the court or whether the payor is in arrears. A copy of a payment history is attached as Exhibit "B." Clearly, these records are records of the judiciary.

In Benavides v. Lee, 665 S.W.2d 151 (Tex. App.--San Antonio 1983), the Court ruled that, with regard to employee records, the County Juvenile Board was not an extension of the judiciary in the meaning of the Texas Open Records Act. However, the Court stated that "analysis should not focus on the functions of the probation officer but on the Board itself and the kind of information

requested." Benavides v. Lee, 665 S.W.2d at 151. The records being sought in the present request are not for employee's records; they are records of the financial arrangements for the support of a child. These records are the type of records that the judicial exclusion was enacted to protect.

Further, it is the position of Bexar County that these records are excepted from disclosure by §3(a)(1) of article 6252-17a which protects information deemed confidential by law.

The Bexar County Child Support Registry (BCCSR) is under contract with the Attorney General's Office to have a computer tie-in with the Attorney General's Office. A copy of that agreement is included as Exhibit "C" for your review. The Contract obligates the County to provide information to the Attorney General's Office regarding the delinquency and payment of child support. The Human Resources Code sets out specific requirements regarding the confidentiality of information of the type that is being requested. Human Res. Code §76.006 (Vernon 1990). Section 76.006 states, in pertinent part:

(a) All files and records of services provided under this chapter, including information concerning a custodial parent, noncustodial parent, child, and an alleged father of a child who has no presumed father, are confidential....

(c) Release of information from the files and records shall be restricted to purposes directly connected with the administration of the child support, paternity determination, parent locator, or aid to families with dependant children programs.... Human Res. Code §76.006(a)&(c) (Vernon 1990).

The BCCSR has developed a security system that protects the information that it collects and stores on behalf of the Attorney General's Office. In order to access the computer system, an employee must have a code number and a password. When evaluating the need for an employee to access information stored on the computer system, the Director determines for which programs the employee should be cleared. The BCCSR Department has kept tight control on who can view the information stored on its computer system. The only people from the County that can access information on this computer system are those employees whose duties are consistent with the duties which are listed in §76.006(c) of the Human Resources Code.